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CLERK U.S. DISTRICT COURT
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JOSEPH A. MANDOUR, III (SBN 188896)
GORDON E. GRAY (SBN 175209)
BEN T. LILA (SBN 246808)
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Attorneys for plaintiff,
WALTER L. MITCHELL III

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

WALTER L. MITCHELL III, an
individual,

Plaintiff,

v.

3PL SYSTEMS, INC., a California
Corporation,

Defendant.

Civil Case No. **SACV11-00534** **MLG**

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT AND OTHER
RELIEF**

DEMAND FOR JURY TRIAL

Plaintiff WALTER L. MITCHELL III (hereinafter "plaintiff" or "MR. MITCHELL"),
by and through its counsel, alleges against defendant 3PL SYSTEMS, INC. (hereinafter
"defendant" or "3PL SYSTEMS") as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement pursuant to 17 U.S.C. § 501, *et seq.*
and unfair competition under state law and common law.

COMPLAINT FOR COPYRIGHT INFRINGEMENT AND OTHER RELIEF
DEMAND FOR JURY TRIAL

1 **THE PARTIES**

2 2. Plaintiff WALTHER L. MITCHELL III is an individual residing in Irvine,
3 California.

4 3. On information and belief, defendant 3PL SYSTEMS is or purports to be a
5 corporation organized and existing under the laws of the State of California.

6
7 **JURISDICTION AND VENUE**

8 4. This Court has subject matter jurisdiction over this lawsuit under 28 U.S.C. §
9 1338 because the action arises under the copyright laws of the United States, and pendant
10 jurisdiction of any and all state causes of action under 28 U.S.C. § 1367.

11 5. This Court has personal jurisdiction over 3PL SYSTEMS because, on
12 information and belief, 3PL SYSTEMS resides and transacts business in the Central District of
13 California. Further, on information and belief, the defendant systematically and continuously
14 directs business activities toward and into the Central District of California through
15 advertisements, promotions, sales, and through a publicly accessible online website.

16 6. Venue is proper and reasonable in this district under 28 U.S.C. § 1391(b)(2)
17 because a substantial part of the events or omissions giving rise to this claim for copyright
18 infringement and unfair competition occurred in this district and 3PL SYSTEMS resides in the
19 district.

20 **FACTS**

21 7. Marc Meskin and Robby Thone were part owners of a corporation called
22 Freightsaver.com, Inc. in 2000. Freightsaver.com, Inc. hired MR. MITCHELL as an
23 independent contractor, along with other individuals, to create a software package and website
24 referred to as "Freightsaver.com" from 2000 to 2001. However, the Freightsaver.com software
25 package was never completed. Instead, it was merely a framework.

26 8. In 2002, Messrs. Meskin and Thone, now operating another corporation named
27 DTM Services Inc. dba Diversified Transportation Services (hereinafter "DTS"), purchased the
28

1 Freightsaver.com software framework. DTS then hired MR. MITCHELL as an independent
2 contractor to change the Freightsaver.com framework to a finished software package. However,
3 it became clear that MR. MITCHELL would need to create a new software program to be called
4 “Transportation Management System”. MR. MITCHELL did not use the code from the
5 Freightsaver.com framework. A true and correct copy of a “Letter of Understanding” for the
6 “Freightsaver Software Program Proposal” is attached hereto as Exhibit A.

7 9. In 2003, MR. MITCHELL and Messrs. Meskin and Thone decided that rather
8 than merely have MR. MITCHELL create a new software program for DTS, the three men
9 would create a new company to market and license the new software program, namely 3PL
10 SYSTEMS. In October 2003, MR. MITCHELL and Mr. Meskin entered into another “Letter of
11 Understanding” regarding a “Software Development Proposal” wherein Messrs. MITCHELL,
12 Meskin and Thone would become owners of the new company and MR. MITCHELL would
13 also be paid separately as an independent contractor to create and develop the “Transportation
14 Management System”. However, the ownership shares of 3PL SYSTEMS were subsequently
15 renegotiated as shown in paragraph 14. A true and correct copy of the October 2003 “Letter of
16 Understanding” is attached hereto as Exhibit B.

17 10. From 2002 to 2005, MR. MITCHELL authored, created and developed an
18 original computer program work entitled “Transportation Management System” (hereinafter
19 “TMS” or “the Software”). The first working release of the Software was licensed to DTS and
20 implemented on or about January 1, 2005. The Software is copyrightable subject matter under
21 the laws of the United States.

22 11. MR. MITCHELL legally owns the Software, all of the exclusive copyrights
23 therein and is entitled to copyright protection. On or about February 22, 2005, MR.
24 MITCHELL submitted the Software to the U.S. Copyright Office for registration. MR.
25 MITCHELL complied in all respects with the registration and deposit requirements of the Act.
26 A true and correct copy of U.S. Copyright Office Certificate of Registration No. TXu 1-2-3-899
27 is attached hereto as Exhibit C.
28

1 12. On or about June 1, 2005, MR. MITCHELL, Marc Meskin and Robby Thone
2 incorporated 3PL SYSTEMS under the laws of the State of California. At no time has MR.
3 MITCHELL entered into a "WORK FOR HIRE" agreement regarding copyright ownership of
4 TMS with 3PL SYSTEMS. At no time has MR. MITCHELL assigned any of his copyrights to
5 3PL SYSTEMS.

6 13. MR. MITCHELL and Messrs. Meskin and Thone were appointed directors of
7 3PL Systems. Mr. Meskin was appointed president, and Mr. Thone was appointed vice-
8 president of 3PL Systems. MR. MITCHELL was appointed secretary of 3PL Systems.

9 14. MR. MITCHELL and Messrs. Meskin and Thone further issued fractional shares
10 of the corporation as follows:

11 Marc Meskin and Jolene Meskin: 3500 shares;

12 Walter Mitchell and Kim Mitchell: 3500 shares; and

13 Robby Thone and Bridgette Thone: 3000 shares.

14 15. MR. MITCHELL continued to develop and improve TMS as an independent
15 contractor for 3PL SYSTEMS. On or about June 26, 2007, MR. MITCHELL submitted the
16 latest version of the Software to the U.S. Copyright Office for registration. MR. MITCHELL
17 complied in all respects with the registration and deposit requirements of the Act. A true and
18 correct copy of U.S. Copyright Office Certificate of Registration No. TX 6-645-508 is attached
19 hereto as Exhibit D.

20 16. In or about November 2007, plaintiff became an employee of 3PL Systems.
21 From June 2005 to the present, 3PL Systems has used the Software in the operation of its
22 business. In consideration for his continued employment, MR. MITCHELL licensed TMS to
23 3PL Systems. On or about March 17, 2011 defendants discharged plaintiff's employment
24 without good cause and terminated its license for the Software. However, 3PL SYSTEMS
25 continues to use, sell and offer to sell TMS to customers. 3PL SYSTEMS now refers to TMS
26 by the name "BrokerWare."

27 17. 3PL SYSTEMS' wrongful activities are, on information and belief, willful in
28

1 nature. Defendant adopted and continued to use plaintiff's copyrighted materials with full
 2 knowledge of plaintiff's rights. On information and belief, 3PL SYSTEMS acted knowingly to
 3 infringe on the rights of plaintiff, or with callous disregard for the rights of plaintiff.

4 5 **CLAIMS FOR RELIEF**

6 **First Claim for Relief** 7 **(Copyright Infringement)**

8 18. Plaintiff repeats and incorporates by reference the statements and allegations in
 9 paragraphs 1 to 17 of the Complaint as though fully set forth herein.

10 19. At all times relevant hereto, plaintiff has been the owner of all copyright rights or
 11 rights to assert copyright claims for the Software and all derivative works. Plaintiff further
 12 holds copyright registration certificates from the United States Copyright Office for the
 13 Software.

14 20. Without authorization, 3PL SYSTEMS used, copied, reproduced, and
 15 republished the copyrighted Software. 3PL SYSTEMS' copying, reproduction, and
 16 republication were commercial in character and purpose. 3PL SYSTEMS either completely or
 17 substantially used plaintiff's copyrighted Software.

18 21. Plaintiff did not authorize Defendants' copying, displaying, or republishing of
 19 the works. 3PL SYSTEMS infringed the copyrights of Plaintiff's creative works by
 20 reproducing, republishing, publicly displaying, and creating derivatives of the works.

21 22. As a result of 3PL SYSTEMS' infringement, plaintiff has suffered, and will
 22 continue to suffer, substantial losses, including but not limited to damage to his business
 23 reputation and goodwill.

24 23. 3PL SYSTEMS knew the infringed works belonged to plaintiff and that they did
 25 not have authorization to exploit plaintiff's works. 3PL SYSTEMS' infringements were
 26 therefore willful.

27 24. On information and belief, 3PL SYSTEMS induced, caused and materially
 28

1 contributed to the infringing acts of others by encouraging, inducing, allowing, and assisting
 2 others to reproduce and republish plaintiff's works. Further, on information and belief, 3PL
 3 SYSTEMS had knowledge of the infringing acts of others relating to plaintiff's copyrighted
 4 work.

5 25. On information and belief, 3PL SYSTEMS has the right and ability to control the
 6 infringing acts of the individuals and entities that directly infringed Plaintiff's works. Further,
 7 on information and belief, 3PL SYSTEMS obtained a direct financial benefit from the
 8 infringing activities of the individuals or entities that directly infringed Plaintiff's works.

9 26. 3PL SYSTEMS' actions, as set forth above, constitute copyright infringement in
 10 violation of the Copyright Act, 17 U.S.C. § 501, *et seq.*, all to the damage of plaintiff as
 11 previously alleged.

12 **Second Claim of Relief**

13 **(Unfair Competition)**

14 27. Plaintiff repeats and incorporates by reference the statements and allegations in
 15 paragraphs 1 to 26 of the Complaint as though fully set forth herein.

16 28. 3PL SYSTEMS' acts, as set forth above, constitute unfair competition as defined
 17 in California Business and Professions Code § 17200, *et seq.*, all to the damage of plaintiff as
 18 previously alleged.

19 **Third Claim of Relief**

20 **(Unfair Competition)**

21 29. Plaintiff repeats and incorporates by reference the statements and allegations in
 22 paragraphs 1 to 28 of the Complaint as though fully set forth herein.

23 30. Defendants' acts, as set forth above, constitute unfair competition as defined
 24 under California common law, all to the damage of plaintiff as previously alleged.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff asks that this Court grant judgment against 3PL SYSTEMS for
 27
 28

1 the following:

2 A. 3PL SYSTEMS, its officers, agents, servants, employees, and attorneys, and all
3 persons in active concert or participation with any of them, be temporarily restrained,
4 and preliminarily and permanently enjoined from:

5 i. infringing plaintiff's copyrighted works;

6 ii. competing unfairly with plaintiff in any manner, including infringing any of
7 plaintiff's copyright rights; and

8 iii. conspiring, encouraging, inducing, allowing, abetting, or assisting others in
9 performing any of the activities referred to in subparagraphs (i) - (ii) above.

10 B. 3PL SYSTEMS, its officers, agents, servants, employees, and attorneys, and all
11 persons in active concert or participation with any of them, deliver for destruction, or
12 show proof of destruction of, any and all products, labels, signs, prints, packages,
13 wrappers, receptacles, and advertisements, and any other materials in their possession or
14 control that depict or reference the any of plaintiff's copyrighted materials or any other
15 confusingly or substantially similar trademark, and any materials or articles used for
16 making or reproducing the same.

17 C. 3PL SYSTEMS file with the Court and serve on plaintiff, within 30 days after
18 the entry and service on 3PL SYSTEMS of an injunction, a report in writing and attested
19 to under penalty of perjury setting forth in detail the manner and form in which
20 Defendants have complied with the provisions of subparagraphs (A) and (B) above.

21 D. Plaintiff recover all damages it has sustained as a result of 3PL SYSTEMS'
22 copyright infringement and unfair competition.

23 E. Plaintiff be awarded 3PL SYSTEMS' profits and enhanced damages.

24 F. An accounting be directed to determine 3PL SYSTEMS' profits resulting from
25 their infringement and unfair competition and that the profits be paid over to plaintiff,
26 increased as the Court determines is appropriate to the circumstances of this case.

27 G. Plaintiff be awarded statutory damages.
28

1 H. Plaintiff be awarded its reasonable attorneys' fees for prosecuting this action.

2 I. Plaintiffs recover its costs of this action and pre-judgment and post-judgment
3 interest, to the full extent allowed by law.

4 J. Plaintiff be awarded punitive damages pursuant to, *inter alia*, California common
5 law, Business and Professions Code § 14250, and any other relevant statute.

6 K. Plaintiff receive all other relief the Court deems appropriate.
7


8 **DEMAND FOR JURY TRIAL**

9 Plaintiff hereby demands a trial by the jury on its claims herein and all issues and claims
10 so triable in this action.
11

12 Respectfully submitted,

13 Dated: April 6, 2011

MANDOUR & ASSOCIATES, APC

14 
15 Ben T. Lila (SBN 246808)

blila@mandourlaw.com

Attorneys for plaintiff,

WALTER L. MITCHELL III
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EXHIBIT A

LETTER OF UNDERSTANDING

FREIGHTSAVER SOFTWARE PROGRAM PROPOSAL

Whereas, the rights to the software program known as "Freightsaver.com" are collectively owned by the following individuals:

Walter Schwab	-20%
Bill Suwara	-20%
Marc Meskin and Robby Thone	-20%
Ryan Renne	-10%
Walter Mitchell	-10%
Roland Sunga	- 5%
Unassigned	-15%

Diversified Transportation Services wishes purchase the framework of the incomplete Freightsaver.com software package for the purpose of converting the product to a comprehensive transportation software brokerage product. It is estimated that the cost to complete the project will be roughly \$100-110,000 (not including Diversified Transportation resources) and that it will take 7-10 months.

In consideration for the release of the rights to the Freightsaver.com program, Diversified Transportation Services proposes the following:

- A total of \$10,000 (lump sum) cash payment to be paid for the rights to the software. Amounts to be distributed to the individuals listed above in accordance with the percentage ownership outlined.
 - Any individual or group may forfeit up front cash payment in return for future use of newly completed software. Newly completed transportation brokerage software will be available to all Freightsaver.com principals at significantly reduced price. *CASH PAYMENT DECLINED*
- In the event that the newly created transportation brokerage software is marketed, a new enterprise will be established and will include all initial owners of Freightsaver.com software. Percentage ownership in new transportation brokerage software marketing enterprise will be determined by the additional costs incurred in software development.

If the proposal outlined above is acceptable please indicate your acceptance below.

Walter Mitchell

Date

Walter Mitchell
8/8/2002

EXHIBIT B

LETTER OF UNDERSTANDING

Software Development Proposal

This proposal is for the continued development and future intentions of the transportation brokerage office management software (referred to as TMS).

At the time that the TMS is marketed and sold a new enterprise will be formed with the following ownership:

Marc Meskin and Robby Thone	70%
(24% for time and effort, 44% for current and future capital investment, 2% for existing freightsaver.com ownership)	
Walter Mitchell	25%
(24% for time and effort, 1% for existing freightsaver.com ownership)	
Bill Suwara (from freightsaver.com)	2%
Buster Schwab (from freightsaver.com)	2%
Ryan Renne (from freightsaver.com)	1%
Roland Sunga (from freightsaver.com)	0%

Additionally, Walter Mitchell will be granted a contract for the continued development of the software. The contract will be for 6 months at \$3,500.00 per month. The contract will start on November 1st 2003 and terminate on April 30th 2004. After the end of 6 months this contract can be renegotiated with the following considerations:

- If a new enterprise is formed then an agreed upon salary will be provided to Walter Mitchell for the continued development, project management, and implementation of the software. The terms of the salary will be determined at the time that formation of the new enterprise and will include a provision based on the success of the software.
- If continued development is requested and an enterprise is not formed both parties (Walter Mitchell and Marc Meskin) will agree to terms to extend the contract. This will include consideration for other installations of the software to help subsidize the cost of the contract.
- Walter Mitchell will have exclusive rights to develop and manage the development of the TMS software.

If the proposal outlined above is acceptable please indicate acceptance below.


Walter Mitchell


Date

10/21/03


Marc Meskin


Date

10/21/03

10/19/2003

EXHIBIT C

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Form TX
For a Nondramatic Literary Work
UNITED STATES COPYRIGHT OFFICE

TXu 1 - 223 - 899



EFFECTIVE DATE OF REGISTRATION

2 22 05
Month Day Year

DO NOT WRITE ABOVE THIS LINE IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET

1

TITLE OF THIS WORK

Transportation Management System

PREVIOUS OR ALTERNATIVE TITLES

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared Title of Collective Work

If published in a periodical or serial give Volume Number Issue Date On Pages

2

a NAME OF AUTHOR

Walter Lee Mitchell III

DATES OF BIRTH AND DEATH
Year Born Year Died

1973

Was this contribution to the work a "work made for hire?"

☐ Yes

☒ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country

OR Citizen of *United States*

Domiciled in

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ No

Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes" see detailed instructions

NOTE

Under the law the author of a "work made for hire" is generally the employer, not the employee (see instructions). For any part of this work that was made for hire check "Yes" in the space provided give the employer (or other person for whom the work was prepared) as "Author" of that part and leave the spaces for dates of birth and death blank.

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed

Computer Program

b NAME OF AUTHOR

DATES OF BIRTH AND DEATH
Year Born Year Died

Was this contribution to the work a "work made for hire?"

☐ Yes

☐ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country

OR Citizen of

Domiciled in

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☐ No

Pseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes" see detailed instructions

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed

c NAME OF AUTHOR

DATES OF BIRTH AND DEATH
Year Born Year Died

Was this contribution to the work a "work made for hire?"

☐ Yes

☐ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country

OR Citizen of

Domiciled in

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☐ No

Pseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes" see detailed instructions

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed

3

a YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED This information must be given ONLY if this work has been published

2004-2005

b DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK Complete this information ONLY if this work has been published

Month Day Year

4

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2

*Walter Lee Mitchell III
23486 Via Jacinto
Aliso Viejo, CA 92656*

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright

APPLICATION RECEIVED

FEB 22 2005

ONE DEPOSIT RECEIVED

FEB 22 2005

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

MORE ON BACK

Complete all applicable spaces (numbers 5-9) on the reverse side of this page. See detailed instructions. Sign the form at line 8.

DO NOT WRITE HERE
Page 1 of 2 pages

*Added by C O from copy

EXAMINED BY <u>MW</u>	FORM TX
CHECKED BY	
<input type="checkbox"/> CORRESPONDENCE	FOR
Yes	COPYRIGHT
	OFFICE
	USE
	ONLY

DO NOT WRITE ABOVE THIS LINE IF YOU NEED MORE SPACE USE A SEPARATE CONTINUATION SHEET

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☒ No If your answer is Yes why is another registration being sought? (Check appropriate box) ▼a ☐ This is the first published edition of a work previously registered in unpublished formb ☐ This is the first application submitted by this author as copyright claimantc ☐ This is a changed version of the work, as shown by space 6 on this application

If your answer is Yes, give Previous Registration Number ►

Year of Registration ►

5

DERIVATIVE WORK OR COMPILATION

Preexisting Material Identify any preexisting work or works that this work is based on or incorporates ▼

a 6

See instructions
before completing
this space

Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed ▼

b

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office give name and number of Account

Name ▼

Account Number ▼

a 7

CORRESPONDENCE Give name and address to which correspondence about this application should be sent Name/Address/Apt./City/State/ZIP ▼

b

Walter Lee Mitchell III
23486 Via Jacinto
Aliso Viejo, CA 92656
Area code and daytime telephone number ► 949-951-6436
Email ► Walter.L.Mitchell130@excite.com

Fax number ►

CERTIFICATION* I the undersigned, hereby certify that I am the

Check only one ►

☐ author☐ other copyright claimant☐ owner of exclusive right(s)☐ authorized agent of

Name of author or other copyright claimant or owner of exclusive right(s) ▲

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge

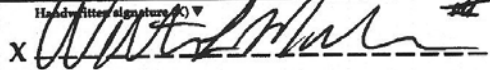
8

Typed or printed name and date ▼ If this application gives a date of publication in space 3 do not sign and submit it before that date

Walter Lee Mitchell III

Date ► 1/26/2005

Handwritten signature (X) ▼

X 

Certificate will be mailed in window envelope to this address

Name ▼ Walter L Mitchell III
Number/Street/Apt. ▼ 23486 Via Jacinto
City/State/ZIP ▼ Aliso Viejo, CA 92656

Complete all necessary spaces

Sign your application in space 8

1 Application form
2 Nonrefundable filing fee in check or money order payable to Registrar of Copyrights
3 Deposit material

Library of Congress
Copyright Office TX
101 Independence Avenue SE
Washington DC 20540-6222

9

Fees are subject to change. For current fees visit the Copyright Office website at www.copyright.gov, write the Copyright Office or call (202) 707-5900

17 U.S.C. § 506(e) Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 408 or in any written statement filed in connection with the application shall be fined not more than \$2,500

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U.S. Government Printing Office: 2000-461 113/20 021

EXHIBIT D

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Form TX
For a Nondramatic Literary Work
UNITED STATES COPYRIGHT OFFICE

REGIST. TX 6-645-508



EFFECTIVE DATE OF REGISTRATION

JUN 26 2007

Month Day Year

DATE CONTINUATION SHEET.

1	TITLE OF THIS WORK ▼ 3PL Systems - Transportation Management System	
	PREVIOUS OR ALTERNATIVE TITLES ▼ Transportation Management System	
PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼		
If published in a periodical or serial give: Volume ▼ Number ▼ Issue Date ▼ On Pages ▼		
2	NAME OF AUTHOR ▼ a Walter Lee Mitchell III	
	DATES OF BIRTH AND DEATH Year Born ▼ Year Died ▼ 1975	
Was this contribution to the work a "work made for hire"? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
AUTHOR'S NATIONALITY OR DOMICILE Name of Country OR { Citizen of ► United States Domiciled in ►		
WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK Anonymous? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Pseudonymous? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼ Computer Program		
NOTE	NAME OF AUTHOR ▼ b	
	DATES OF BIRTH AND DEATH Year Born ▼ Year Died ▼	
Was this contribution to the work a "work made for hire"? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
AUTHOR'S NATIONALITY OR DOMICILE Name of Country OR { Citizen of ► Domiciled in ►		
WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK Anonymous? <input type="checkbox"/> Yes <input type="checkbox"/> No Pseudonymous? <input type="checkbox"/> Yes <input type="checkbox"/> No		
NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼		
C	NAME OF AUTHOR ▼	
	DATES OF BIRTH AND DEATH Year Born ▼ Year Died ▼	
Was this contribution to the work a "work made for hire"? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
AUTHOR'S NATIONALITY OR DOMICILE Name of Country OR { Citizen of ► Domiciled in ►		
WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK Anonymous? <input type="checkbox"/> Yes <input type="checkbox"/> No Pseudonymous? <input type="checkbox"/> Yes <input type="checkbox"/> No		
NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼		
3	YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED 2005	
	DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK Month ► February Day ► 22 Year ► 2005 United States	
4	COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼ Walter Lee Mitchell III 45 Golden Glen Irvine, CA 92604	
	TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼	
APPLICATION RECEIVED OCT 16 2007 JUN 26 2007 TWO DEPOSITS RECEIVED FUNDS RECEIVED		

MORE ON BACK ► • Complete all applicable spaces (numbers 5-9) on the reverse side of this page.
• See detailed instructions. • Sign the form at line 6

DO NOT WRITE HERE
Page 1 of 2 pages

EXAMINED BY <u>oem</u>	FORM TX
CHECKED BY	
<input checked="" type="checkbox"/> CORRESPONDENCE Yes	FOR COPYRIGHT OFFICE USE ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?
☒ Yes ☐ No If your answer is "Yes," why is another registration being sought? (Check appropriate box.) ▼

- a. ☐ This is the first published edition of a work previously registered in unpublished form.
 b. ☐ This is the first application submitted by this author as copyright claimant.
 c. ☒ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ▶

TXul-223-899

Year of Registration ▶

2005

DERIVATIVE WORK OR COMPILATION

Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▼

This is a new version of the software with substantial additions and updates.

Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

Many enhancements have been made including revisions and additions to text and screen displays.

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.
 Name ▼ Account Number ▼

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/Zip ▼

Walter Lee Mitchell III
 45 Golden Glen
 Irvine, CA 92604

Area code and daytime telephone number ▶ 714-357-6436

Fax number ▶ 800-322-4439

Email ▶ walterlmitchell3@excite.com

CERTIFICATION* I, the undersigned, hereby certify that I am the

Check only one ▶

- ☐ author
☐ other copyright claimant
☐ owner of exclusive right(s)
☐ authorized agent of

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Name of author or other copyright claimant, or owner of exclusive right(s) ▲

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

Walter Lee Mitchell III

Date ▶ October 3 2007

Handwritten signature ▼

Certificate
 will be
 mailed in
 window
 envelope
 to this
 address:

Name ▼
 Walter Lee Mitchell III
 Number/Street/Apt ▼
 45 Golden Glen
 City/State/Zip ▼
 Irvine, CA 92604

YOU MUST

- Complete all necessary spaces
- Sign your application in space 8

SEND ALL 3 ELEMENTS IN THE SAME PACKAGE

1. Application form
 2. Nonrefundable filing fee in check or money order payable to Register of Copyrights
 3. Deposit material
- MAIL TO**
 Library of Congress
 Copyright Office
 101 Independence Avenue SE
 Washington, DC 20559-6222

*17 USC §506(a): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

Form TX - Full Rec: 11/2009 Print: 11/2009 - 30,000 Printed on recycled paper

U.S. Government Printing Office: 2008-501-000/501.000

Joseph A. Mandour (SBN 188896)
 Ben T. Lila (SBN 246808)
 Mandour & Associates, APC
 16870 W. Bernardo Drive, Suite 400
 San Diego, California, 92127
 (858) 487-9300

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

WALTER L. MITCHELL III, an individual, <div style="text-align: right;">PLAINTIFF(S)</div>	CASE NUMBER <div style="text-align: center;">SACV11-00534 MLG</div>
<div style="text-align: center;">v.</div> 3PL SYSTEMS, INC., a California Corporation, <div style="text-align: right;">DEFENDANT(S).</div>	<div style="text-align: center;">SUMMONS</div>

TO: DEFENDANT(S): 3PL Systems, Inc.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Joseph A. Mandour, whose address is Mandour & Associates, APC, 16870 W. Bernardo Dr., Ste. 400 San Diego, CA, 92127. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

APR 7 2011

Dated: _____

Clerk, U.S. District Court

By: ROLLS ROYCE PASCHAL

Deputy Clerk

(Seal of the Court)



1144

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/> WALTER L. MITCHELL III		DEFENDANTS 3PL SYSTEMS, INC.																									
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Mandour & Associates, APC, 16870 W. Bernardo Drive, Suite 400, San Diego, California 92127, (858) 487-9300		Attorneys (If Known)																									
II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)		III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table border="1" style="width:100%"><thead><tr><th></th><th>PTF</th><th>DEF</th><th></th><th>PTF</th><th>DEF</th></tr></thead><tbody><tr><td>Citizen of This State</td><td><input type="checkbox"/> 1</td><td><input type="checkbox"/> 1</td><td>Incorporated or Principal Place of Business in this State</td><td><input type="checkbox"/> 4</td><td><input type="checkbox"/> 4</td></tr><tr><td>Citizen of Another State</td><td><input type="checkbox"/> 2</td><td><input type="checkbox"/> 2</td><td>Incorporated and Principal Place of Business in Another State</td><td><input type="checkbox"/> 5</td><td><input type="checkbox"/> 5</td></tr><tr><td>Citizen or Subject of a Foreign Country</td><td><input type="checkbox"/> 3</td><td><input type="checkbox"/> 3</td><td>Foreign Nation</td><td><input type="checkbox"/> 6</td><td><input type="checkbox"/> 6</td></tr></tbody></table>			PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																						
IV. ORIGIN (Place an X in one box only.) <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge																											
V. REQUESTED IN COMPLAINT: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Check 'Yes' only if demanded in complaint.) CLASS ACTION under F.R.C.P. 23: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No MONEY DEMANDED IN COMPLAINT: \$ _____																											
VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) 17 U.S.C. § 501, Infringement of Copyrighted Software																											
VII. NATURE OF SUIT (Place an X in one box only.)																											
OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input checked="" type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609																						

FOR OFFICE USE ONLY: Case Number: **SACV11-00534 MLG**

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- ☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County (all defendants)	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles (all claims)	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involvedX. SIGNATURE OF ATTORNEY (OR PRO PER):  Date April 6, 2011

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))